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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050750
Party	Defendant DIEHL FOOD INGREDIENTS, INC.
Correspondence Address	DIEHL FOOD INGREDIENTS, INC. 24 NORTH CLINTON STREET DEFIANCE, OH 43512 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Michele P. Schwartz
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Date	05/08/2009
Attachments	MotiontoSuspend.pdf (5 pages)(136914 bytes) DOC.PDF (30 pages)(809411 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 3,259,135)

Issued: July 3, 2007)

Mark: SENSORYEFFECTS and Design)

SENSIENT TECHNOLOGIES)
CORPORATION,)

Cancellation No. 92050750

Petitioner,)

v.)

DIEHL FOOD INGREDIENTS, INC.,)

Respondent.)

MOTION TO SUSPEND CANCELLATION PROCEEDING

Pursuant to 37 C.F.R. § 2.117(a), Respondent Diehl Food Ingredients, Inc. moves to suspend the above-captioned proceeding pending disposition of Civil Action No. 4:08-CV-336 ERW filed over a year ago by Petitioner Sensient Technologies Corporation against, *inter alia*, Respondent in the United States District Court for the Eastern District of Missouri (hereinafter the "Civil Action"). The Complaint and the Answer in the Civil Action are attached hereto as Exhibits A and B, respectively. Prior to filing this Motion, Respondent requested that Petitioner consent to suspension but Petitioner has refused.

FACTS

Petitioner filed a Petition to Cancel Registration No. 3,259,135 for the mark SensoryEffects & Design, which is owned by Respondent. In the Petition, Petitioner claims prior use of the trademarks SENSIENT, SENSIENT TECHNOLOGIES, SENSIROME and other marks featuring the "SENS" prefix, and prior use of the trade names Sensient, Sensient

Technologies, Sensient Flavors and Sensient Colors (collectively the “SENSIENT Marks”). Petitioner claims (a) that Respondent’s mark SensoryEffects & Design is confusingly similar to the SENSIENT Marks, (Petition ¶ 15); (b) that Respondent has committed fraud in connection with Registration No. 3,259,125, (Petition ¶ 20); and (c) that Respondent’s mark SensoryEffects & Design dilutes the SENSIENT Marks, (Petition ¶25) . For standing purposes, Petitioner claims that Respondent’s mark SensoryEffects & Design will “continue to be a source of injury and damage” to Petitioner due to Petitioner’s priority as to use of the SENSIENT Marks, likelihood of confusion between the SENSIENT Marks and Respondent’s mark, and dilution of the SENSIENT Marks due to Respondent’s mark. (Petition ¶¶ 24 and 25).

On April 15, 2008, Petitioner and a related entity filed the Civil Action. The basis for the claims in the Civil Action is the alleged prior use of the same SENSIENT Marks that are alleged in the Petition to Cancel. In fact, paragraph 20, 21, 22 and 23 of the First Amended Complaint are virtually identical to paragraphs 8, 9, 10 and 11 in the Petition to Cancel, all of which discuss Petitioner’s ownership and registration of the SENSIENT Marks. The allegations common to all claims in the Civil Action are further based on Respondent’s alleged use of the mark and trade name “SensoryEffects Flavor” for food flavorings and additives. (First Amended Complaint ¶29). Specifically, Count 1 of the First Amended Complaint is a claim for federal trademark infringement under 15 U.S.C. § 1114(1). Count 2 of the First Amended Complaint is a claim for violation of federal unfair competition law under 15 U.S.C. § 1125(a)(1)(A). Count 6 of the First Amended Complaint is a claim for trademark dilution under Missouri dilution law, Mo.Rev.Stat. § 417.061(1). The First Amended Complaint further requests that the Court order a permanent injunction against Respondent prohibiting Respondent from using, *inter alia*, (i) the name and mark SensoryEffects Flavor or “any related or derivative marks,” or (ii) any marks confusingly

similar to the SENSIENT Marks or any related or derivative marks, on or in connection with any unauthorized goods or services. (First Amended Complaint p. 12). The First Amended Complaint further requests that the Court order a permanent injunction against Respondent from further diluting the distinctive value of the SENSIENT Marks (First Amended Complaint p. 13).

ARGUMENT

The disposition of the Civil Action will determine whether the mark SensoryEffects Flavors or any “related or derivative marks” infringe or dilute¹ the SENSIENT Marks. The registered mark that is the subject of the Cancellation Proceeding is SensoryEffects & Design and this mark must be considered a “related or derivative mark” since the sole distinctive term in the mark and name “SensoryEffects Flavors” for flavor products, that is the subject of the Civil Action, is the term “SensoryEffects.” Thus, the determination in the Civil Action will have a bearing on the rights of the parties and the instant cancellation proceeding. This conclusion is further support by the fact that Petitioner’s sole basis for standing is the allegation that Respondent continues to be injured and damaged due to likelihood of confusion and dilution between the SENSIENT Marks and Respondent’s mark. (Petition ¶ 24 and 25). See *Whopper-Burger, Inc. v. Burger King Corporation* 171 U.S.P.Q. 805 (T.T.A.B. 1971) and *The Other Telephone Company v. Connecticut National Telephone Company, Inc.*, 181 U.S.P.Q. 125 (T.T.A.B. 1974).

¹ The Missouri Anti-Dilution statute prohibits use of marks that cause a “likelihood of dilution,” and thus will have bearing on the federal dilution claim in the Petition to Cancel. Section 417.061(1) of the Missouri statute states as follows: “Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under sections 417.005 to 417.066, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.”

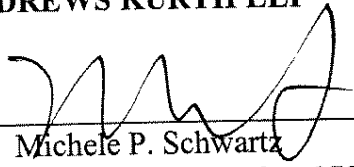
CONCLUSION

Accordingly, it is respectfully submitted that all further proceedings in the instant cancellation proceeding should be suspended pending disposition of the Civil Action.

Respectfully submitted,

ANDREWS KURTH LLP

By: _____


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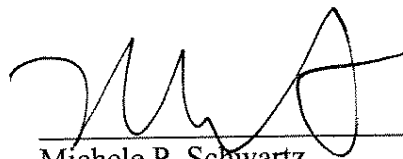
ATTORNEYS FOR RESPONDENT
DIEHL FOOD INGREDIENTS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION TO SUSPEND CANCELLATION PROCEEDING has been served on Respondent by sending the same via Federal Express on May 8, 2009 to:

Lori S. Meddings
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4108

and that the same document was filed electronically on the same day with the TTAB via ESTAA.



Michele P. Schwartz

Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

SENSIENT TECHNOLOGIES CORPORATION
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202,

Case No. 4:08-CV-336 ERW

SENSIENT FLAVORS LLC
5600 W. Raymond Street
Indianapolis, Indiana 56241

JURY TRIAL DEMANDED

Plaintiff,

v.

SENSORYEFFECTS FLAVOR COMPANY
f/k/a SensoryFlavors, Inc.
231 Rock Industrial Park Drive
Bridgeton, Missouri 63044

PERFORMANCE CHEMICALS &
INGREDIENTS CO.,
231 Rock Industrial Park Drive
Bridgeton, Missouri 63044

DIEHL FOOD INGREDIENTS, INC.,
24 N. Clinton Street
Defiance, Ohio 43512, and

HIGHLANDER PARTNERS, L.P.
3811 Turtle Creek, Suite 250
Dallas, Texas 75219

Defendants.

FIRST AMENDED COMPLAINT

Plaintiffs, Sensient Technologies Corporation (“Sensient Technologies”) and its flavoring subsidiary Sensient Flavors LLC (“Sensient Flavors”), by their undersigned attorneys, for their amended complaint against Defendants, SensoryEffects Flavor Company, f/k/a SensoryFlavors, Inc. (“SensoryEffects Flavor”), Performance Chemicals & Ingredients Co. (“PCI”), Diehl Food Ingredients, Inc. (“Diehl”), and Highlander Partners, L.P. (“Highlander”) state the following:

NATURE AND STATUTORY BASIS OF ACTION

This is an action for federal trademark infringement and false advertising under the Lanham Act, 15 U.S.C. §§ 1114-1118 and 1125, and under Missouri law.

PARTIES

1. Plaintiff Sensient Technologies is a Wisconsin corporation with its principal place of business located at 777 East Wisconsin Avenue, Milwaukee, Wisconsin.
2. Plaintiff Sensient Flavors is a Delaware limited liability company and wholly-owned subsidiary of Sensient Technologies with its principal place of business located at 5600 W. Raymond Street, Indianapolis, Indiana.
3. Upon information and belief, defendant SensoryEffects Flavor is a Delaware corporation located at 231 Rock Industrial Park Drive, Bridgeton, Missouri and, until after a temporary restraining order was entered in this case, was known as SensoryFlavors, Inc.
4. Upon information and belief, defendant PCI is a Delaware company located at 231 Rock Industrial Park Drive, Bridgeton, Missouri, and owns SensoryEffects Flavor.
5. Upon information and belief, SensoryEffects Flavor Company is the new name for SensoryFlavors, Inc., which was the new name for Givaudan Flavours North America’s dairy and ice cream flavors business, which was purchased and renamed by PCI on February 13, 2008.

6. Upon information and belief, defendant Diehl is a foreign corporation headquartered at 24 N. Clinton Street, Defiance, Ohio 43512.

7. Upon information and belief, defendant Highlander is a foreign limited partnership located at 3811 Turtle Creek, Suite 250, Dallas, Texas, with the following principals: Charles Nicolais, Michael Nicolais and Alex Guiva.

8. Charles Nicolais was the president of SensoryFlavors and is the president of SensoryEffects Flavor, as well as the president of PCI and Diehl. Previously, from February 2004 to July 2005, Mr. Nicolais was employed as the head of Sensient Colors, a subsidiary of Sensient Technologies located in St. Louis, Missouri, and a sister company to Sensient Flavors.

9. There are three other individuals associated with SensoryEffects Flavor and/or its parent companies, each of which also held managerial positions at Sensient Colors.

10. Upon information and belief, Darren Lane was hired by defendants and is currently the chief financial officer of Diehl. Formerly, Mr. Lane was the controller for Sensient Colors from February 2003 to June 2007.

11. Upon information and belief, Dennis Reid is the Vice President of Marketing for Diehl and was the marketing manager for Sensient Colors from April 2002 to December 2004.

12. Upon information and belief, Wayne R. Burgdorf, is now employed by defendants. From August 2004 through February 2008, Mr. Burgdorf was the Manager, International Accounting for Sensient Colors.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1338 and 1367, principles of supplemental jurisdiction, and pursuant to application of Missouri's long-arm statutes, Mo. Rev. Stat. §§ 506.500. Venue is proper in this district pursuant to 28 U.S.C.

§ 1391(b) and (c), in that at least one defendant resides in this judicial district.

14. Upon information and belief, the parent defendants named in this action, including PCI, Diehl and Highlander, exercise direct control over SensoryEffects Flavor, and SensoryEffects Flavor (f/k/a SensoryFlavors) is effectively an agent of the parent defendants in the state of Missouri.

ALLEGATIONS COMMON TO ALL CLAIMS

Sensient

15. Sensient Technologies is a global business based in Milwaukee, Wisconsin.

16. Sensient Technologies and its subsidiaries develop, manufacture and distribute proprietary flavor, fragrance and color systems that are the essential components of thousands of food, beverage, household care, and personal products around the world.

17. Sensient Technologies is a world-leading supplier of sophisticated, valued-added flavors and food ingredients.

18. Sensient Technologies has earned a prominent presence in the food, beverage, and ingredient marketplace and has sustained it for more than 125 years.

19. Before 2000, Sensient Technologies was known as Universal Foods.

20. In 2000, Universal Foods made the decision to re-brand itself by creating the coined name "Sensient" and designing its fanciful mark.

21. In the ensuing years, Sensient Technologies invested significant time and millions of dollars to rename itself and its subsidiaries, including Sensient Flavors and Sensient Colors, and to label all of its products with the new name and mark.

The Sensient Marks

22. To protect its distinctive presence in this market, Sensient owns several federally registered trademarks: SENSIENT, SENSIENT TECHNOLOGIES, and SENSIROME, among many others featuring the “SENS” prefix, and uses the common-law trade names and trademarks Sensient, Sensient Flavors and Sensient Colors in Missouri and elsewhere throughout the United States. These and other Sensient-owned trade names and trademarks identified, collectively referred to herein as the “Sensient Marks,” are used on goods and services in Missouri and elsewhere in the United States.

23. The Sensient Marks are federally registered, the subject of pending federal trademark applications, or protected by common law.

24. One or more of the Sensient Marks are featured on Sensient’s websites (www.sensient-tech.com and www.sensientflavors.com), in all Sensient Technologies’ marketing materials, and on advertising, packaging, and labeling for Sensient Technologies’ and Sensient Flavors’ products.

SensoryFlavors and SensoryEffects Flavor

25. SensoryEffects Flavor is the latest name given by defendants to the recently-acquired and renamed food ingredient business that was purchased by Defendant PCI on February 13, 2008.

26. Upon acquisition, defendants initially named the business SensoryFlavors Inc., and defendants conducted business in Missouri and elsewhere under the trade name and trademark SensoryFlavors and used the domain name www.sensoryflavors.com.

27. After the Court granted plaintiffs a temporary restraining order enjoining defendants from using the name SensoryFlavors or any confusingly similar name, defendants

changed the name of SensoryFlavors to SensoryEffects Flavor Company on or around April 2, 2008.

28. According to press releases contemporaneous with the acquisition, like Sensient Flavors, SensoryEffects Flavor's facility produces flavor bases and variegates utilized by dairies in the production of ice cream and novelty products as well as cocoa powder.

29. The products that SensoryEffects Flavor plans to offer under the SensoryEffects Flavor Company brand, including food flavorings and additives that purport to enhance taste and improve the nutritional profile of food, specifically ice cream and dairy products, are very similar to and compete with products offered by Sensient Flavors under the Sensient Marks and Sensient Flavors brand.

30. On March 10, 2008, Sensient Technologies and Sensient Flavors filed a Complaint and Motion for a Preliminary Injunction to stop defendants' current use and prevent defendants' future use of the SensoryFlavors trade name, trademark, and domain name.

31. On March 21, 2008, following a hearing on Sensient Technologies and Sensient Flavors' Motion for a Temporary Restraining Order, the Court entered a temporary restraining order prohibiting the use of the SensoryFlavors mark based on a finding that plaintiffs were likely to prevail on the merits of their claim that the SensoryFlavors mark violated plaintiffs' trademark rights.

32. Following the imposition of the temporary restraining order, which prohibited defendants from using the SensoryFlavors trade name, trademark, and domain name, or any other confusingly similar name, and in order to avoid expedited discovery prior to the preliminary injunction hearing, defendants represented to the Court that they would forever stop all current and future use of the SensoryFlavors mark.

33. After representing to the Court that they would cease all use of the name SensoryFlavors, and without further advising the Court, defendants instead inserted the word “Effects” between “Sensory” and “Flavors” and registered the name SensoryEffects Flavor Company with the Missouri Secretary of State on April 2, 2008.

34. Upon information and belief, despite the temporary restraining order and despite representing to the Court that they would not use SensoryFlavors, Defendants have begun using the SensoryEffects Flavor trade name and trademark in Missouri and elsewhere in the United States.

35. SensoryEffects Flavor’s choice of a second confusingly similar name was also an intentional copying of the Sensient Marks.

36. By virtue of Charles Nicolais’ previous position with Sensient Flavors, neither he nor any of the defendants can claim ignorance as to the existence or significance of the Sensient Marks, including Sensient Flavors.

37. Defendants were also well aware of the Sensient Marks by virtue of their involvement in this litigation.

38. Defendants chose to rename their newly-acquired business SensoryFlavors, and later SensoryEffects Flavor to associate the business with Sensient’s reputation and goodwill.

39. Defendants’ actions are also plainly calculated to erode Sensient’s distinctive trademark with respect to its flavoring products, as well as the goodwill associated with the Sensient Marks in the food industry.

40. Defendants’ adoption and use of a mark likely to cause confusion in the marketplace for food ingredient products is the type of harm the Lanham Act was designed to prevent.

41. Defendants' prior use of SensoryFlavors and, unless enjoined, defendants' knowing, willful, and unlawful use of the mark SensoryEffects Flavor in the marketplace has caused and threatens to cause customer confusion and injury to Sensient Technologies and Sensient Flavors' reputation.

42. Defendants used the name SensoryFlavors (initially) and now intend to use the SensoryEffects Flavor name and mark in advertisements and on websites for its business.

43. Defendants' prior use of the SensoryFlavors mark and current use of the SensoryEffects Flavor mark involve an intent to deceive the marketplace into believing that SensoryEffects Flavor's products are somehow affiliated with, sponsored by, or otherwise connected to the goodwill and reputation of Sensient Technologies and/or Sensient Flavors.

44. Defendants' prior use of the SensoryFlavors mark and current use of the SensoryEffects Flavor mark constitutes passing off products not originating with or authorized by Sensient Technologies or Sensient Flavors as being such.

45. Purchasers and prospective purchasers of SensoryEffects Flavor's products marketed under the SensoryFlavors and SensoryEffects Flavor marks are likely to be confused and deceived into believing, contrary to fact, that SensoryEffects Flavor's products are sponsored by, authorized by, or associated with Sensient Technologies and/or Sensient Flavors and therefore backed by Sensient Technologies and/or Sensient Flavors' reputation and goodwill.

46. Defendants' conduct creates a likelihood of confusion, mistake and deception as to the source and sponsorship of SensoryEffects Flavor's goods, services, and business, all to Sensient Technologies' and Sensient Flavors' irreparable loss and damage.

47. In addition, defendants' acts complained of herein are likely to dilute and have diluted the distinctive quality of the Sensient Marks, including the Sensient Flavors trade name

and trademark.

48. Defendants' conduct is likely to dilute and, unless enjoined, will continue to dilute the ability of the Sensient Marks to function as source indicators and has caused actual harm to those marks and to Sensient Technologies and/or Sensient Flavors' reputation and goodwill.

49. Defendants' misrepresentations and false advertising are material and are likely both to influence purchasing decisions and to deceive.

50. Unless enjoined, defendants will continue to deceive a substantial segment of the marketplace.

51. As long as defendants are allowed to continue to use the SensoryEffects Flavor trade name and mark, Sensient Technologies' and Sensient Flavors' reputations and goodwill are in jeopardy.

52. Defendants' misrepresentations and false advertising are likely to deceive, and unless enjoined will, continue to deceive a substantial segment of consumers and potential customers.

53. Unless enjoined, defendants' trademark infringement will result in irreparable harm to Sensient Technologies' and Sensient Flavors' reputations and goodwill and actual deception of and damage to consumers.

54. Sensient Technologies and Sensient Flavors have suffered and will continue to suffer irreparable injury to their reputations and goodwill unless defendants are enjoined from continuing the conduct complained of, which injury cannot be adequately compensated monetarily.

55. Defendants' acts complained of herein were committed and are being committed willfully, and this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

**COUNT ONE
FEDERAL TRADEMARK INFRINGEMENT**

56. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

57. Defendants' acts complained of herein constitute trademark infringement in violation of 15 U.S.C. § 1114(1).

58. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

**COUNT TWO
FEDERAL UNFAIR COMPETITION**

59. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

60. Defendants' acts complained of herein constitute a violation of 15 U.S.C. § 1125(a)(1)(A).

61. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

**COUNT THREE
FEDERAL FALSE ADVERTISING**

62. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

63. Defendants' acts complained of herein constitute false advertising under 15 U.S.C. § 1125(a)(1)(B).

64. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

**COUNT FOUR
COMMON LAW TRADEMARK INFRINGEMENT AND
UNFAIR COMPETITION**

65. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

66. Defendants' acts complained of herein constitute common-law trademark infringement and unfair competition in violation of the laws of the State of Missouri and the laws of the several states.

67. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

**COUNT FIVE
TRADEMARK INFRINGEMENT UNDER MO. REV. STAT. § 417.066(1)**

68. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

69. Defendants' acts complained of herein constitute violations of Mo. Rev. Stat. § 417.066(1).

70. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

**COUNT SIX
TRADEMARK DILUTION UNDER MO. REV. STAT. § 417.061(1)**

71. Sensient Technologies and Sensient Flavors reallege each and every allegation of the preceding paragraphs of this complaint as if fully set forth herein.

72. Defendants' acts complained of herein constitute violations of Mo. Rev. Stat. § 417.066(1).

73. By reason of the foregoing unlawful conduct, Sensient Technologies and Sensient Flavors have been and will continue to suffer irreparable harm and other injury.

WHEREFORE, Sensient Technologies and Sensient Flavors pray for judgment against defendants as follows:

1. A permanent injunction against defendants and their servants, agents, employees, successors and assigns, and all persons acting in privity or active concert with them, enjoining them from:

- (a) using in any manner:
 - (i) the SensoryFlavors and SensoryEffects Flavor name and logo or any related or derivative marks; or
 - (ii) the Sensient Marks or any mark confusingly similar to the Sensient Marks or any related or derivative marks, on or in connection with any unauthorized goods or services;
- (b) disseminating, using, or distributing any advertising or promotional materials, electronic or otherwise:
 - (i) that contain the SensoryFlavors or SensoryEffects Flavor name and logo, the Sensient Marks, or any mark confusingly similar to the Sensient Marks; or
 - (ii) that state or imply that SensoryEffects Flavor is an authorized distributor of or are otherwise connected to Sensient;
- (c) using the SensoryFlavors or SensoryEffects Flavor name and logo, the Sensient Marks, or any mark confusingly similar to the Sensient Marks in any other

- manner likely to cause confusion, mistake, or deception as to the source or sponsorship of SensoryEffects Flavor's goods or services;
- (d) holding themselves and/or any business they are connected with out to the public as being authorized by Sensient Technologies or Sensient Flavors or as being affiliated with or sponsored by Sensient Technologies or Sensient Flavors in any manner or committing any acts likely to imply such a relationship or affiliation;
 - (e) passing off their products and services as originating with or sponsored or authorized by Sensient Technologies or Sensient Flavors;
 - (f) further diluting the distinctive value of the Sensient Marks; and
 - (g) using or disseminating any false or misleading statements as to the nature, quality, or characteristics of SensoryEffects Flavor's goods and services.
2. Requiring SensoryEffects Flavor to deliver up to Sensient Technologies and Sensient Flavors for destruction all goods, signs, advertisements, literature, business forms, cards, labels, packages, wrappers, pamphlets, brochures, receptacles, and any other written or printed material in their possession or under their control which bear the SensoryFlavors or SensoryEffects Flavor name and logo, the Sensient Marks, or any mark confusingly similar to the Sensient Marks or which contain any false or misleading representation of fact and any plates, molds, and other means of making the same;
 3. Requiring an accounting of profits made by SensoryEffects Flavor as a result of the acts complained of herein;

4. Awarding damages sustained by Sensient Technologies and Sensient Flavors as a result of the acts complained of herein, to be trebled in accordance with 15 U.S.C. § 1117;
6. Awarding Sensient Technologies and Sensient Flavors attorneys' fees pursuant to 15 U.S.C. § 1117;
7. Awarding Sensient Technologies and Sensient Flavors punitive damages for defendants' continued outrageous, intentional, and egregious deception of consumers and violation of Sensient Technologies' and Sensient Flavors' rights; and
8. Awarding Sensient Technologies and Sensient Flavors interest, costs, and such other relief as the court may deem just and equitable.

Plaintiffs demand a trial by jury on all issues so triable.

Dated this 15th day of April 2008.

MICHAEL BEST & FRIEDRICH LLP

By: /s/ Paul F. Linn

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Attorneys for Plaintiff,
Sensient Technologies Corporation

Exhibit B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SENSIENT TECHNOLOGIES
CORPORATION, et al.,

Plaintiffs,

vs.

SENSORYFLAVORS, INC., et al.,

Defendants.

Case No. 4:08-CV-336 ERW

DEFENDANTS' FIRST AMENDED ANSWER AND AFFIRMATIVE DEFENSES

Defendants file this First Amended Answer and Affirmative Defenses to the First Amended Complaint of Plaintiffs Sensient Technologies Corporation and Sensient Flavors LLC (the "Amended Complaint") and respectfully state as follows:

ANSWER

The numbers assigned to these paragraphs correspond to the numbered paragraphs in the Amended Complaint. Defendants answer as follows:

NATURE AND STATUTORY BASIS OF ACTION

Defendants admit that Plaintiffs purport to assert claims under federal and state law but deny that Plaintiffs are entitled to any relief on such claims.

PARTIES

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Amended Complaint, and accordingly, deny the same.

2. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Amended Complaint, and accordingly, deny the same.

3. Defendants affirmatively state that the corporate name SensoryFlavors, Inc. was changed with the Secretary of State for the State of Delaware on March 31, 2008 to SensoryEffects Flavor Company. Defendants admit that SensoryEffects Flavor Company is a Delaware corporation located at 231 Rock Industrial Park Drive, Bridgeton, Missouri. Otherwise, the allegations contained in paragraph 3 of the Amended Complaint are denied.

4. Defendants affirmatively state that Performance Chemicals & Ingredients Company ("PCI") is a Delaware corporation located at 231 Rock Industrial Park Drive, Bridgeton, Missouri 63044. Defendants further affirmatively state that earlier this year, PCI's wholly-owned subsidiary, which was initially called SensoryFlavors, Inc., acquired substantially all the assets of Givaudan Flavors, Inc. ("Givaudan Flavors"), located in Bridgeton, Missouri. Defendants further affirmatively state that the corporate name SensoryFlavors, Inc. was changed with the Secretary of State for the State of Delaware on March 31, 2008 to SensoryEffects Flavor Company. Otherwise, the allegations contained in paragraph 4 of the Amended Complaint are denied.

5. Defendants affirmatively state that earlier this year, PCI's wholly owned subsidiary, SensoryEffects Flavor Company (f/k/a SensoryFlavors, Inc.), acquired substantially all the assets of Givaudan Flavors, located in Bridgeton, Missouri. Defendants further affirmatively state that the corporate name SensoryFlavors, Inc. was changed with the Secretary of State for the State of Delaware on March 31, 2008 to SensoryEffects Flavor Company. Otherwise, the allegations contained in paragraph 5 of the Amended Complaint are denied.

6. Defendants affirmatively state that Diehl Food Ingredients, Inc. ("Diehl Food Ingredients") is a Delaware corporation headquartered at 24 N. Clinton Street, Defiance, Ohio 43512. Otherwise, the allegations contained in paragraph 6 of the Amended Complaint are denied.

7. Defendants affirmatively state that Highlander Partners, L.P. ("Highlander Partners") is a Texas limited partnership located at 3811 Turtle Creek Boulevard, Suite 250, Dallas Texas 75219. Defendants admit that Michael Nicolais is a principal of Highlander Partners. Defendants deny that Charles Nicolais and Alex Guiva are principals of Highlander Partners. Otherwise, the allegations contained in paragraph 7 of the Amended Complaint are denied.

8. Defendants admit that Charles Nicolais is the president of PCI, SensoryEffects Flavor Company, and Diehl Food Ingredients. Defendants affirmatively state that Mr. Nicolais was an employee of Sensient Colors from February 2004 to July 2005. Otherwise, the allegations contained in paragraph 8 of the Amended Complaint are denied.

9. Defendants affirmatively state that Darren Lane, Dennis Reid, and Wayne Burgdorf are former employees of Sensient Colors who now are employed by certain of the Defendants. Otherwise, the allegations contained in paragraph 9 of the Amended Complaint are denied.

10. Defendants affirmatively state that Darren Lane is the Chief Financial Officer of PCI, SensoryEffects Flavor Company, and Diehl Food Ingredients. Defendants admit that Mr. Lane is a former employee of Sensient Colors. Otherwise, the allegations contained in paragraph 10 of the Amended Complaint are denied.

11. Defendants affirmatively state that Dennis Reid is the Vice President of Marketing for Diehl Food Ingredients. Defendants admit that Mr. Reid is a former employee of

Sensient Colors. Otherwise, the allegations contained in paragraph 11 of the Amended Complaint are denied.

12. Defendants affirmatively state that Wayne Burgdorf is an accounting manager at SensoryEffects Flavor Company. Defendants admit that Mr. Burgdorf is a former employee of Sensient Colors. Otherwise, the allegations contained in paragraph 12 of the Amended Complaint are denied.

JURISDICTION AND VENUE

13. Defendants deny the allegations contained in paragraph 13 of the Amended Complaint, and demand strict proof thereof.

14. Defendants deny the allegations contained in paragraph 14 of the Amended Complaint, and demand strict proof thereof.

ALLEGATIONS COMMON TO ALL CLAIMS

Sensient

15. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Amended Complaint, and accordingly, deny the same.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Amended Complaint, and accordingly, deny the same.

17. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 of the Amended Complaint, and accordingly, deny the same.

18. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 of the Amended Complaint, and accordingly, deny the same.

19. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Amended Complaint, and accordingly, deny the same.

20. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 of the Amended Complaint, and accordingly, deny the same.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 of the Amended Complaint, and accordingly, deny the same.

The Sensient Marks

22. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 of the Amended Complaint, and accordingly, deny the same.

23. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 of the Amended Complaint, and accordingly, deny the same.

24. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 of the Amended Complaint, and accordingly, deny the same.

Sensory Flavors, Inc. n/k/a SensoryEffects Flavor Company

25. Defendants affirmatively state that earlier this year, PCI's wholly owned subsidiary, SensoryEffects Flavor Company (f/k/a SensoryFlavors, Inc.), acquired substantially all the assets of Givaudan Flavors, located in Bridgeton, Missouri. Defendants further affirmatively state that the corporate name SensoryFlavors, Inc. was changed with the Secretary of State for the State of Delaware on March 31, 2008 to SensoryEffects Flavor Company. Otherwise, the allegations contained in paragraph 25 of the Amended Complaint are denied.

26. Defendants deny the allegations contained in paragraph 26 of the Amended Complaint.

27. Defendants admit that the Court entered a temporary restraining order in this action on March 21, 2008. Defendants affirmatively state that earlier this year, PCI's wholly-owned subsidiary, SensoryEffects Flavor Company (f/k/a SensoryFlavors, Inc.), acquired substantially all the assets of Givaudan Flavors, located in Bridgeton, Missouri. Defendants further affirmatively state that the corporate name SensoryFlavors, Inc. was changed to SensoryEffects Flavor Company with the Secretary of State for the State of Delaware on March 31, 2008. Otherwise, the allegations contained in paragraph 27 of the Amended Complaint are denied.

28. Defendants affirmatively state that they are aware of one press release issued by SensoryFlavors, Inc. dated February 13, 2008, the content of which speaks for itself. Otherwise, the allegations contained in paragraph 28 of the Amended Complaint are denied.

29. Defendants deny the allegations contained in paragraph 29 of the Amended Complaint.

30. Defendants admit that Plaintiffs filed a Complaint in this action on March 10, 2008. Otherwise, the allegations contained in paragraph 30 of the Amended Complaint are denied.

31. Defendants admit that the Court entered a temporary restraining order in this action on March 21, 2008, and said order speaks for itself. Otherwise, the allegations contained in paragraph 31 of the Amended Complaint are denied.

32. Defendants admit that they have represented to the Court that they have abandoned and do not intend to use the name and mark SensoryFlavors at any time in the future for any purpose. Otherwise, the allegations contained in paragraph 32 of the Amended Complaint are denied.

33. Defendants affirmatively state that the corporate name SensoryFlavors, Inc. was changed to SensoryEffects Flavor Company with the Secretary of State for the State of Delaware on March 31, 2008. Defendants further affirmatively state that an application for a certificate of authority for a foreign for-profit corporation for SensoryEffects Flavor Company was filed with the Missouri Secretary of State on April 2, 2008. Otherwise, the allegations contained in paragraph 33 of the Amended Complaint are denied.

34. Defendants deny the allegations contained in paragraph 34 of the Amended Complaint.

35. Defendants deny the allegations contained in paragraph 35 of the Amended Complaint.

36. Defendants deny the allegations contained in paragraph 36 of the Amended Complaint.

37. Defendants deny the allegations contained in paragraph 37 of the Amended Complaint.

38. Defendants deny the allegations contained in paragraph 38 of the Amended Complaint.

39. Defendants deny the allegations contained in paragraph 39 of the Amended Complaint.

40. Defendants deny the allegations contained in paragraph 40 of the Amended Complaint.

41. Defendants deny the allegations contained in paragraph 41 of the Amended Complaint.

42. Defendants deny the allegations contained in paragraph 42 of the Amended Complaint.

43. Defendants deny the allegations contained in paragraph 43 of the Amended Complaint.

44. Defendants deny the allegations contained in paragraph 44 of the Amended Complaint.

45. Defendants deny the allegations contained in paragraph 45 of the Amended Complaint.

46. Defendants deny the allegations contained in paragraph 46 of the Amended Complaint.

47. Defendants deny the allegations contained in paragraph 47 of the Amended Complaint.

48. Defendants deny the allegations contained in paragraph 48 of the Amended Complaint.

49. Defendants deny the allegations contained in paragraph 49 of the Amended Complaint.

50. Defendants deny the allegations contained in paragraph 50 of the Amended Complaint.

51. Defendants deny the allegations contained in paragraph 51 of the Amended Complaint.

52. Defendants deny the allegations contained in paragraph 52 of the Amended Complaint.

53. Defendants deny the allegations contained in paragraph 53 of the Amended Complaint.

54. Defendants deny the allegations contained in paragraph 54 of the Amended Complaint.

55. Defendants deny the allegations contained in paragraph 55 of the Amended Complaint.

**COUNT ONE
FEDERAL TRADEMARK INFRINGEMENT**

56. Defendants incorporate their answers to the preceding paragraphs.

57. Defendants deny the allegations contained in paragraph 57 of the Amended Complaint.

58. Defendants deny the allegations contained in paragraph 58 of the Amended Complaint.

**COUNT TWO
FEDERAL UNFAIR COMPETITION**

59. Defendants incorporate their answers to the preceding paragraphs.

60. Defendants deny the allegations contained in paragraph 60 of the Amended Complaint.

61. Defendants deny the allegations contained in paragraph 61 of the Amended Complaint.

**COUNT THREE
FEDERAL FALSE ADVERTISING**

62. Defendants incorporate their answers to the preceding paragraphs.

63. Defendants deny the allegations contained in paragraph 63 of the Amended Complaint.

64. Defendants deny the allegations contained in paragraph 64 of the Amended Complaint.

**COUNT FOUR
COMMON LAW TRADEMARK INFRINGEMENT AND
UNFAIR COMPETITION**

65. Defendants incorporate their answers to the preceding paragraphs.

66. Defendants deny the allegations contained in paragraph 66 of the Amended Complaint.

67. Defendants deny the allegations contained in paragraph 67 of the Amended Complaint.

**COUNT FIVE
TRADEMARK INFRINGEMENT UNDER MO. REV. STAT. § 417.066(1)**

68. Defendants incorporate their answers to the preceding paragraphs.

69. Defendants deny the allegations contained in paragraph 69 of the Amended Complaint.

70. Defendants deny the allegations contained in paragraph 70 of the Amended Complaint.

**COUNT SIX
TRADEMARK DILUTION UNDER MO. REV. STAT. § 417.061(1)**

71. Defendants incorporate their answers to the preceding paragraphs.

72. Defendants deny the allegations contained in paragraph 72 of the Amended Complaint.

73. Defendants deny the allegations contained in paragraph 73 of the Amended Complaint.

Defendants deny each and every allegation contained in the Amended Complaint that is not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. Further answering, Defendants state that the Amended Complaint fails to state a claim upon which relief can be granted.

2. Further answering, Defendants state that Plaintiffs' claims are moot inasmuch as Defendants are not now using the name or mark SensoryFlavors and do not intend to use them at any time in the future for any purpose.

3. Further answering, Defendants state that Plaintiffs' claims are moot in that Defendants use SensoryEffects Flavor Company as a corporate name and do not market, advertise, promote or sell any products under the mark SensoryEffects Flavor.

4. Further answering, Defendants state that Plaintiffs' claims are barred by the doctrines of laches, acquiescence, estoppel, waiver, and unclean hands.

5. Further answering, Defendants state that Plaintiffs' claims are barred by the applicable statutes of limitations.

6. Further answering, Defendants state that Plaintiffs have not been injured and have suffered no damages in this matter and, as such, this lawsuit should be dismissed.

WHEREFORE, Defendants deny that Plaintiffs are entitled to any of the relief requested in the Amended Complaint, and respectfully pray that (i) the relief sought by Plaintiffs be denied, (ii) judgment on the Amended Complaint be entered in Defendants' favor, and (iii) the Court award Defendants such other relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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